

NO CLEMENCY PLEA PLANNED FOR FRANK

Counsel for Prisoner Will Concentrate Efforts on Se- curing New Trial Through Extraordinary Motion.

Counsel for Leo Frank stated positively to a reporter for The Constitution Friday afternoon that no plea for clemency would be made to Judge Ben Hill when the convicted man is resented.

Whether any other action would be taken it was not said. Attorney Reuben Arnold declared, however, that counsel would not request a life sentence in place of execution. The defense will not protest the fixing of the date of doom, it was said.

Rumors in court realms had it Friday that Frank would be brought before Judge Hill some time today. This could not be verified, however.

Rosser Expected Today.

Attorney Luther Z. Rosser, senior counsel for the defense, was expected to return to Atlanta Friday, but did not arrive. He has been on a trip of several days to Washington and New York.

His associate, Herbert Haas, who has been an active figure in Frank's defense, is also in New York. He will not return at present, however, but will remain in the metropolis for considerable while to come. Immediately upon arriving in Atlanta today Mr. Rosser will go into conference with his colleagues, Reuben Arnold and Leonard Haas. It is reported that a conference will also be held shortly with the prisoner in the Tower.

The attitude of Solicitor Dorsey toward the latest developments in the Frank case remains a mystery. Not a word can be gotten from him by reporters who besiege him daily, and his actions are kept closely secret. He was closeted for an hour Friday with Attorney William Smith, counsel for Jim Conley, the convicted accomplice.

The conference took place in the solicitor's office in the Throver building. Neither man would reveal the nature of their talk. Another conference held by the solicitor Friday was with George Epps, father of the Epps boy, who repudiated his testimony in a sensational affidavit.

Reuben Arnold Optimistic.

In regard to the announcement that the defense would not plead for a commutation of sentence when Frank is brought before the superior court for the fixing of his day of doom, Mr. Arnold declared that the defense had never anticipated taking such a move. He spoke optimistically of the effort to gain the prisoner a new trial on grounds of newly discovered evidence.

"We will not plead for clemency of any nature," said the attorney. "As to

what other action that might be taken I cannot say, until I have consulted with Mr. Rosser upon his return from New York."

Frank was decidedly buoyant in his cell Friday over the two affidavits published exclusively Friday morning in The Constitution, in which Mrs. Ethel Harris Miller swears that she saw him at an hour when Conley testifies he and Frank were lowering Mary Phagan's body into the pencil factory basement.

Truth on the March.

"The truth continues on the march," declared the prisoner to reporters Friday. "I couldn't be at two places at one time. Two witnesses now swear that they saw me at the time the negro says we were in the pencil factory. Miss Helen Kern swore it at the trial. Her evidence is now thoroughly corroborated."

The prisoner also stated that he remembered Mrs. Miller, and, since the publication of the affidavit, recalls having passed her at the downtown point as he was on the way home to lunch. "I even remember how she was dressed," he said to the newspaper men.

Editorial in Times.

Concerning the protest of the Georgia State Chamber of Commerce against certain statements contained in recent interviews with Frank's attorneys in The New York Times, The Times replies editorially as follows:

"With great justice and properly, the Georgia Chamber of Commerce, in its telegraphed communication which we printed yesterday morning, protests damaging imputations against the city of Atlanta which have here and there been uttered in connection with the Frank trial. To the charge that there was prejudice against Frank because of a local feeling of the employed class against employer and because he was a stranger, the chamber of commerce makes this reply:

"Atlanta and the whole state of Georgia not only have no prejudice against a stranger, but we cordially invite manufacturers and investors, farmers and the better class of immigrants to make their homes and engage in business among us. The statement of Attorney Rosser concerning some local prejudice against strangers is doubly absurd when it is known that the heads of our public service corporation, many of the banks and largest business houses and manufacturing concerns came to Atlanta from New England, the north and the middle west."

"The city of Atlanta is not unlike other American communities, with the majority of its citizens self-respecting and law abiding. There is a fringe of the population there, as in other cities, made of that more emotional and excitable class which does not always behave well under such tests as that of the trial of Frank. There had been a somewhat unusual number of unpunished crimes in Atlanta, and there was public insistence that the guilt be speedily fixed in the case of the murderer of the Phagan girl. Certain newspapers treated the crime in a highly sensational way, and there undoubtedly was a good deal of excitement over the case. But this is what happens in other cities, even in large cities like New York. The conditions are by no means peculiar to Atlanta, and it is not just that the reputation of that city should suffer as if it were somehow inhabited by different order of beings.

"Some of the comments upon the Frank case venture a comparison with the trial of Becker in New York. The cases are totally unlike. There was an inherent probability of guilt in Becker's case, for the evidence established a very intimate association between him and the class of persons concerned in the murder of Rosenthal. There was evidence that he had been a recipient of money paid by gamblers for protection. That charge was directly made by Rosenthal, and Rosenthal had threatened to expose him. There was not a particle of evidence of that nature in the Frank case, nothing tending to establish an antecedent probability of guilt. All the known facts and circumstances, indeed, were against that theory; made it even seem improbable and unreasonable. Those who take to themselves the responsibility for whatever public clamor there may have been during the Frank trial in Atlanta can get neither justification nor comfort from comparison with the Becker case."